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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

RDK NY INC,

Plaintiff,

v.

Salem Media Group, Inc.,

Defendant.

Case No:

**COMPLAINT FOR
(1) Copyright Infringement
under 17 U.S.C §501
DEMAND FOR JURY TRIAL**

Plaintiff RDK NY INC (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against defendant Salem Media Group, Inc. (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement under the Copyright Act, 17 U.S.C §501.

2. Plaintiff created a video of a man confronting animal rights activists in New York (the “Video”) in which Plaintiff owns the rights and licenses for various uses including online and print publications.

3. Defendant is a media company which owns and operates a website at

1 domain redstate.com (the “*Website*”).

2 4. Defendant, without permission or authorization from Plaintiff, actively
3 copied and/or displayed the Video on the Website and engaged in this misconduct
4 knowingly and in violation of the United States copyright laws.

5 **PARTIES**

6 5. RDK NY INC is a New York Corporation and maintains its principal
7 place of business in Kings County, New York.

8 6. On information and belief, defendant Salem Media Group, Inc., is a
9 California Corporation with a principal place of business at 4880 Santa Rosa Road,
10 Camarillo, CA 93012, Santa Rosa Valley in Ventura County, California.

11 **JURISDICTION AND VENUE**

12 7. This Court has subject matter jurisdiction over the federal copyright
13 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

14 8. This Court has personal jurisdiction over Defendant because it
15 maintains its principal place of business in California.

16 9. Venue is proper under 28 U.S.C. §1391(a)(2) because Defendant does
17 business in this Judicial District and/or because a substantial part of the events or
18 omissions giving rise to the claim occurred in this Judicial District.

19 **FACTS COMMON TO ALL CLAIMS**

20 **A. Plaintiff's Copyright Ownership**

21 10. Plaintiff is a professional Videographer by trade who is the legal and
22 rightful owner of certain Videos which Plaintiff commercially licenses.

23 11. Plaintiff has invested significant time and money in building Plaintiff's
24 Video portfolio.

25 12. Plaintiff has obtained active and valid copyright registrations from the
26 United States Copyright Office (the “*USCO*”) which cover many of Plaintiff's
27 Videos while many others are the subject of pending copyright applications.

1 13. Plaintiff's Videos are original, creative works in which Plaintiff owns
2 protectable copyright interests.

3 14. On August 27, 2022, Plaintiff authored the Video. A copy of a frame
4 from the Video is attached hereto as Exhibit 1 for reference.

5 15. In creating the Video, Plaintiff personally selected the subject matter,
6 timing, lighting, angle, perspective, depth, lens and camera equipment used to
7 capture the image.

8 16. On August 31, 2022, the Video was registered by USCO under
9 Registration No. PA 2-374-295.

10 17. Plaintiff published the Video by placing it on Twitter with for the
11 purpose of display and/or public distribution.

12 **B. Defendant's Infringing Activity**

13 18. Defendant is the registered owner of the Website and is responsible for
14 its content.

15 19. Defendant is the operator of the Website and is responsible for its
16 content.

17 20. The Website is a key component of Defendant's popular and lucrative
18 commercial enterprise.

19 21. The Website is monetized in that it contains paid advertisements and,
20 on information and belief, Defendant profits from these activities.

21 22. On or about August 28, 2022, Defendant displayed a still frame it
22 extracted from the Video on the Website as part of an on-line story at URL
23 [https://redstate.com/bonchie/2022/08/28/watch-man-becomes-legend-after-](https://redstate.com/bonchie/2022/08/28/watch-man-becomes-legend-after-confronting-animal-rights-activists-in-hilarious-fashion-n619206)
24 [confronting-animal-rights-activists-in-hilarious-fashion-n619206](https://redstate.com/bonchie/2022/08/28/watch-man-becomes-legend-after-confronting-animal-rights-activists-in-hilarious-fashion-n619206). A copy of a
25 screengrab of the Website including the still-frame from Video is attached hereto as
26 Exhibit 2.

27 23. The image from the Video was stored at URL: <https://redstate.com/wp->
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<content/uploads/media/2022/08/Vegan-Guy-730x0.png>.

24. Without permission or authorization from Plaintiff, Defendant volitionally copied and/or displayed elements from Plaintiff's copyright protected Video on the Website.

25. Plaintiff first observed and actually discovered the Infringement on August 29, 2022.

26. On information and belief, the frame from Video was copied and displayed by Defendant without license or permission, thereby infringing on Plaintiff's copyrights in and to the Video (hereinafter all of the unauthorized uses set forth above are referred to as the "*Infringement*").

27. The Infringement includes a URL ("*Uniform Resource Locator*") for a fixed tangible medium of expression that was sufficiently permanent or stable to permit it to be communicated for a period of more than transitory duration and therefore constitutes a specific infringement. *17 U.S.C. §106(5)*.

28. The Infringement is an exact copy of Plaintiff's original image that was directly copied and displayed by Defendant on the Website.

29. On information and belief, Defendant takes an active and pervasive role in the content posted on its Website, including, but not limited to copying, posting, selecting, commenting on and/or displaying images including but not limited to Plaintiff's Video.

30. On information and belief, Defendant directly contributes to the content posted on the Website by, *inter alia*, directly employing reporters, authors and editors as its agents, including but not limited to Bonchie who Defendant describes as the front-page contributor for the Website (<https://redstate.com/author/bonchie>) (the "*Employees*").

31. On information and belief, at all material times the Employees were acting within the course and scope of their employment when they posted the

1 Infringement.

2 32. On information and belief, at all material times the Employees were
3 acting within the course and scope of their agency when they posted the
4 Infringement.

5 33. Prior to commencing this litigation, Plaintiff communicated with
6 Defendant concerning this matter. Despite those efforts, Plaintiff was unable to
7 resolve this matter without the necessity of filing this complaint.

8 34. On information and belief, the Video was willfully and volitionally
9 posted to the Website by Defendant.

10 35. On information and belief, the Infringement was not posted at the
11 direction of a “user”, as that term is defined in 17 U.S.C. §512(c).

12 36. On information and belief, Defendant was aware of facts or
13 circumstances from which the determination regarding the Infringement was
14 apparent. Defendant cannot claim that it was not aware of the infringing activities,
15 including the specific Infringement which form the basis of this complaint, since
16 such a claim would amount to only willful blindness to the Infringement on the part
17 of Defendant.

18 37. On information and belief, Defendant engaged in the Infringement
19 knowingly and in violation of applicable United States copyright laws.

20 38. On information and belief, Defendant has the legal right and ability to
21 control and limit the infringing activities on its Website and exercised and/or had the
22 right and ability to exercise such right.

23 39. On information and belief, Defendant monitors the content on its
24 Website.

25 40. On information and belief, Defendant has received a financial benefit
26 directly attributable to the Infringement.

27 41. On information and belief, the Infringement increased traffic to the
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1 Website and, in turn, caused Defendant to realize an increase in its advertising
2 revenues and/or merchandise sales.

3 42. On information and belief, a large number of people have viewed the
4 unlawful copies of the Video on the Website.

5 43. On information and belief, Defendant at all times had the ability to stop
6 the reproduction and display of Plaintiff's copyrighted material.

7 44. Plaintiff created the Video with the intention of it being used
8 commercially and for the purpose of display and/or public distribution.

9 45. Defendant's use of the Video harmed the actual market for the Video.

10 46. Defendant's use of the Video, if widespread, would harm Plaintiff's
11 potential market for the Video.

12 47. As a result of Defendant's misconduct, Plaintiff has been substantially
13 harmed.

14 **FIRST COUNT**

15 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

16 48. Plaintiff repeats and incorporates by reference the allegations contained
17 in the preceding paragraphs, as though set forth in full herein.

18 49. The Video is an original, creative work in which Plaintiff owns a valid
19 copyright.

20 50. The Video is properly registered with the USCO and Plaintiff has
21 complied with all statutory formalities under the Copyright Act and under
22 regulations published by the USCO.

23 51. Plaintiff has not granted Defendant a license or the right to use the
24 Video in any manner, nor has Plaintiff assigned any of its exclusive rights in the
25 copyright to Defendant.

26 52. Without permission or authorization from Plaintiff and in willful
27 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
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1 illegally copied, reproduced, distributed, adapted, and/or publicly displayed works
2 copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in its
3 copyrights.

4 53. Defendant's reproduction of the Video and display of the Video
5 constitutes willful copyright infringement.

6 54. On information and belief, Defendant willfully infringed upon
7 Plaintiff's copyrighted Video in violation of Title 17 of the U.S. Code, in that
8 Defendant used, published, communicated, posted, publicized, and otherwise held
9 out to the public for commercial benefit, Plaintiff's original and unique Video
10 without Plaintiff's consent or authority, by using it on the Website.

11 55. As a result of Defendant's violations of Title 17 of the U.S. Code,
12 Plaintiff is entitled to any an award of actual damages and disgorgement of all of
13 Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504
14 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
15 statutory damages against each Defendant for each infringement pursuant to 17
16 U.S.C. § 504(c).

17 56. As a result of the Defendant's violations of Title 17 of the U.S. Code,
18 the court in its discretion may allow the recovery of full costs as well as reasonable
19 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

20 57. As a result of Defendant's violations of Title 17 of the U.S. Code,
21 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his
22 copyright pursuant to 17 U.S.C. § 502.

23 **JURY DEMAND**

24 58. Plaintiff hereby demands a trial of this action by jury.

25 **PRAYER FOR RELIEF**

26 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

27 That the Court enters a judgment finding that Defendant has infringed on
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1 Plaintiff's rights to the Video in violation of 17 U.S.C. §501 *et seq.* and therefore
2 award damages and monetary relief as follows:

- 3 a. finding that Defendant infringed Plaintiff's copyright interest in
4 and to the Video by copying and displaying it without a license
5 or consent;
- 6 b. for an award of actual damages and disgorgement of all of
7 Defendant's profits attributable to the infringements as provided
8 by 17 U.S.C. § 504(b) in an amount to be proven or, in the
9 alternative, at Plaintiff's election, an award for statutory damages
10 against each Defendant for each infringement pursuant to 17
11 U.S.C. § 504(c), whichever is larger;
- 12 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant
13 from any infringing use of any of Plaintiff's works;
- 14 d. for costs of litigation and reasonable attorney's fees against
15 Defendant pursuant to 17 U.S.C. § 505;
- 16 e. for pre-judgment interest as permitted by law; and
- 17 f. for any other relief the Court deems just and proper.

18
19 DATED: May 9, 2023

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